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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of:	)	FIL ORG ID: 153099
	)	
THE COMMISSIONER OF BUSINESS	)	CITATION INCLUDING:
OVERSIGHT,	)	
	)	1. DESIST AND REFRAIN ORDER
Complainant,	)	
	)	2. ASSESSMENT OF ADMINISTRATIVE
v.	)	PENALTIES
	)	
ATNCARE FRANCHISING, LLC (D/B/A GO	)	3. CLAIM FOR ANCILLARY RELIEF AND
TELECARE),	)	COSTS
	)	
Respondent.	)	
	)	
	)	

Jan Lynn Owen, the California Commissioner (Commissioner) of the Department of Business Oversight (Department), finds the following:

**I**  
**INTRODUCTION**

1. At all relevant times, ATNcare Franchising, LLC (ATNcare) is an active status Delaware limited liability company formed on June 16, 2014. ATNcare had a principal place of business at 111 Simpaug Turnpike, West Redding, Connecticut 06896, until approximately July 24,

1 2015, and thereafter at 41 Madison Avenue, 25th floor, New York, New York 10010. ATNcare  
2 does business as “Go Telecare” and maintains a website at www.gotelecare.com. ATNcare  
3 allegedly developed and marketed a technology platform for telecommunications between doctors  
4 and patients and purported to provide medical billing and claims processing services to doctors.

5 2. The Commissioner is the head of the Department and is responsible for  
6 administering and enforcing the California Franchise Investment Law, and registering the offer and  
7 sale of franchises in California, pursuant to section 31000 et seq.

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9 **II**  
10 **STATEMENT OF FACTS**

11 3. On August 6, 2014, ATNcare filed an initial franchise registration application with  
12 the Department (Application).

13 4. On or about November 26, 2014, ATNcare sold a franchise covering San Diego  
14 County to a California resident for \$60,000.00.

15 5. On or about December 30, 2014, ATNcare sold a franchise covering Orange County  
16 to a California resident for \$45,000.00.

17 6. On December 30, 2014, ATNcare submitted a pre-effective amendment to its initial  
18 franchise registration application to the Department (2014 Amendment).

19 7. On or around July 2015, ATNcare sold a franchise covering Northern California.

20 8. On July 28, 2015, ATNcare submitted a pre-effective amendment to its application  
21 (2015 Amendment).

22 9. Despite the fact that the initial franchise registration application called for such  
23 information, ATNcare never disclosed in the 2014 Amendment or the 2015 Amendment that  
24 ATNcare had offered or sold franchises in California.

25 10. The Application never became effective.

26 11. ATNcare has never registered a franchise offering in this state.

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**III**  
**CITATION AND DESIST AND REFRAIN ORDER**  
**Violation of Corporations Code Section 31110**

12. Corporations Code section 31110 provides, in relevant part, that “it shall be unlawful for any person to offer or sell any franchise in this state unless the offer of the franchise has been registered.”

13. Based upon the foregoing findings, the Commissioner is of the opinion that ATNcare Franchising, LLC (D/B/A Go Telecare), in violation of section 31110, offered and sold franchises in this state without registration. Pursuant to section 31406, ATNcare Franchising, LLC (D/B/A Go Telecare) is hereby cited and ordered to desist and refrain from further violations of Corporations Code section 31110.

14. This order is necessary, in the public interest, for the protection of investors and franchisees and consistent with the purposes, policies and provisions of the Franchise Investment Law (Corporations Code § 31000, *et seq.*).

**III**  
**CITATION AND DESIST AND REFRAIN ORDER**  
**Violation of Corporations Code Section 31200**

15. Corporations Code section 31123 provides, in relevant part:

A franchisor shall promptly notify the commissioner in writing, by an application to amend the registration, of any material change in the information contained in the application as originally submitted, amended or renewed.

16. Corporations Code section 31200 provides:

It is unlawful for any person willfully to make any untrue statement of a material fact in any application, notice or report filed with the commissioner under this law, or willfully to omit to state in any such application, notice, or report any material fact which is required to be stated therein, or fail to notify the commissioner of any material change as required by Section 31123.

17. Based upon the foregoing findings, the Commissioner is of the opinion that ATNcare Franchising, LLC (D/B/A Go Telecare), in violation of section 31200, willfully made an

1 untrue statement of a material fact in an application with the Commissioner, omitted to state a  
2 material fact which is required to be stated in an application with Commissioner, or failed to notify  
3 the Commissioner of any material change in an application. Pursuant to section 31406, ATNcare  
4 Franchising, LLC (D/B/A Go Telecare) is hereby cited and ordered to desist and refrain from  
5 further violations of Corporations Code section 31200.

6 18. This order is necessary, in the public interest, for the protection of investors and  
7 franchisees and consistent with the purposes, policies and provisions of the Franchise Investment  
8 Law (Corporations Code § 31000, *et seq.*).

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10 **IV**  
**ADMINISTRATIVE PENALTIES**

11  
12 19. Section 31406 provides in relevant part:

13 (a) If, upon inspection or investigation, based upon a complaint or  
14 otherwise, the commissioner has cause to believe that a person is violating  
15 any provision of this division or any rule or order promulgated pursuant to  
16 this division, the commissioner may issue a citation to that person in  
17 writing describing with particularity the basis of the citation. Each citation  
18 may contain an order to desist and refrain and an assessment of an  
19 administrative penalty not to exceed two thousand five hundred dollars  
20 (\$2,500) per violation and shall contain reference to this section, including  
21 the provisions of subdivision (c). All penalties collected under this section  
22 shall be deposited in the State Corporations Fund.

23 (b) The sanctions authorized under this section shall be separate from, and  
24 in addition to, all other administrative, civil, or criminal remedies.

25 (c) If within 60 days from the receipt of the citation, the person cited fails  
26 to notify the commissioner that the person intends to request a hearing as  
27 described in subdivision (d), the citation shall be deemed final.

28 (d) Any hearing under this section shall be conducted in accordance with  
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
Title 2 of the Government Code.

(e) After the exhaustion of the review procedures provided for in this  
section, the commissioner may apply to the appropriate superior court for  
a judgment in the amount of the administrative penalty and order  
compelling the cited person to comply with the order of the commissioner.  
The application shall include a certified copy of the final order of the  
commissioner and shall constitute a sufficient showing to warrant the  
issuance of the judgment and order.

20. Pursuant to Corporations Code section 31406, ATNcare Franchising, LLC (D/B/A Go Telecare) is hereby assessed and ordered to pay an administrative penalty of \$15,000.00, which consists of a penalty of \$2,500.00 for three violations of Corporations Code 31110 section recited above and for three violations Corporations Code section 31200 recited above.

21. The administrative penalty in the amount of \$15,000.00 is due within 30 days from the date of this citation. Payment of this penalty shall be made with a cashier's check made payable to the Department of Business Oversight and shall be submitted to the following address: ATTN: Accounting – Litigation, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice of this payment shall be sent to Adam Wright, Senior Counsel, Department of Business Oversight, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

**V  
ANCILLARY RELIEF & FEES**

22. Section 31408 provides in relevant part:

(a) If the commissioner determines it is in the public interest, the commissioner may include in any administrative action brought under this division, including a stop order, a claim for ancillary relief, including, but not limited to, a claim for rescission, restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the administrative law judge shall have jurisdiction to award additional relief. The person affected may be required to attend remedial education, as directed by the commissioner.

(b) In an administrative action brought under this part the commissioner is entitled to recover costs, which in the discretion of the administrative law judge may include any amount representing reasonable attorney's fees and investigative expenses for the services rendered, for deposit into the State Corporations Fund for the use of the Department of Corporations.

23. Pursuant to Corporations Code section 31408, subdivision (a), any sales of franchises made by ATNcare Franchising, LLC (D/B/A Go Telecare) to California residents or for areas in California are hereby rescinded and any franchise fees paid to ATNcare Franchising, LLC (D/B/A Go Telecare) in connection with those sales shall be disgorged and returned to the purchaser within 30 days from the date of this citation. Proof of disgorgement shall be submitted

1 within 60 days from the date of this citation to Adam Wright, Senior Counsel, Department of  
2 Business Oversight, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

3       24. Pursuant to Corporations Code section 31408, subdivision (b), ATNcare  
4 Franchising, LLC (D/B/A Go Telecare) shall pay, within 30 days from the date of this citation,  
5 attorney's fees and investigative expenses to the Department of Business Oversight in the amount  
6 of \$10,000.00 or according to proof. The amount awarded for attorney's fees and investigative  
7 expenses shall be made with a cashier's check made payable to the Department of Business  
8 Oversight and shall be submitted to the following address: ATTN: Accounting – Litigation,  
9 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice  
10 of this payment shall be sent to Adam Wright, Senior Counsel, Department of Business Oversight,  
11 320 West 4th Street, Suite 750, Los Angeles, California 90013.

12       25. This order is necessary, in the public interest, for the protection of investors and  
13 franchisees and consistent with the purposes, policies and provisions of the Franchise Investment  
14 Law.

15  
16 Dated: May 10, 2017  
17 Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

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19  
20 By \_\_\_\_\_  
21 MARY ANN SMITH  
22 Deputy Commissioner  
23 Enforcement Division  
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